

FILED

April 12, 2005

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW &
PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

RANDELL A. NUSCHKE, M.D.
License No. MA47385

Administrative Action

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, Randell A. Nuschke, M.D., is the holder of License No. MA247385 and has been licensed at all times relevant hereto.

2. On or about March 24, 2004, the North Carolina Medical Board ("North Carolina Board") entered a Consent Order granting Respondent a full and unrestricted license to practice medicine and suspending that license upon issuance for a period of thirty (30) days. Said suspension was stayed subject to Respondent's compliance with the terms and conditions set forth in the Consent Order. The disciplinary action taken by the North Carolina Board was based on Respondent's conduct of providing a response that was technically false and which could reasonably be construed by the

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Board as misleading and constituting a false statement or representation to the Board in connection with his application for licensure. Pursuant to the Consent Order, Respondent admitted that he had filed an application for licensure on or about December 2002, in which Respondent answered "No" to the question, "Have you ever been convicted of, plead guilty to, pled no contest or received a prayer for judgment continued to a violation of federal, state, or local law including any traffic violations?" Respondent did not disclose in the application that in 1970 he was arrested in Pennsylvania and charged with Burglary and Larceny, and that in 1971 he pled guilty to Larceny and was fined \$100.00. He also failed to disclose that the Burglary charge was dismissed pursuant to a nolle prosequi plea. This information was revealed by the North Carolina Board's criminal background check of Respondent as well. Pursuant to the Consent Order, Respondent explained that "his failure to disclose his conviction from 1971 was unintentional and that he did not intend to deceive the Board." Respondent admitted that he "now acknowledges that his response contained in his licensing application is technically false and that the response can reasonably be construed as misleading and that he should have, in an abundance of caution, disclosed his 1971 conviction."

3. On or about September 24, 1985, Respondent submitted an Application for Endorsement to this Board wherein he answered "No"

to question #12, "Have you ever been charged with, arrested for, or convicted of, a crime of any degree in this or any other State of the United States or foreign county?" In addition, Respondent executed an Affidavit of Good Moral Character dated September 24, 1985, wherein he states the following in paragraphs 1, 2, and 4:

1. I have not been formally or informally accused, charged, or indicted for the commission of any crime or offense, whether State or Federal, including offenses categorized as misdemeanors, high misdemeanors or felonies.
2. I have not been convicted of any of the foregoing crimes or offenses under any circumstances such as, but not limited to, a plea of guilty, Non Vult, Nolo Contendere, No Contest, etc., or a finding by a judge or jury.
4. I realize the foregoing information is necessary for an evaluation of my application, of which this is a part, and I fully recognize that full disclosure is essential to such procedures.

CONCLUSION OF LAW

1. The conduct of Respondent as stated in paragraph 3 above provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(a), in that Respondent has obtained a license issued by this Board through fraud, deception, misrepresentation, false promise or false pretense.

2. The above criminal action taken by the State of Pennsylvania provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(f), in that, Respondent has been

convicted of, or engaged in acts constituting, a crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board.

3. The above disciplinary action taken by the State of North Carolina against Respondent provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(g), in that Respondent has had his license suspended in another state.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending Respondent's license to practice *medicine* and surgery in the State of New Jersey for a period of thirty (30) days was entered on October 18, 2004 and a copy was forwarded to Respondent at the last known address on file with the Board. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

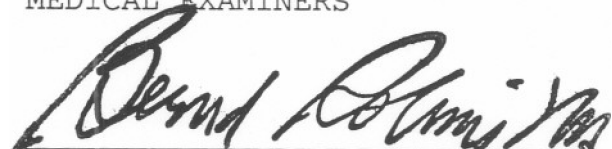
Although the record reflects that the Provisional Order was served upon Respondent, no response has been received to date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 12th day of April, 2005, ORDERED THAT:

1. Respondent's license to practice medicine and surgery in the State of New Jersey shall be and hereby is suspended for a period of thirty (30) days. Said suspension shall be stayed upon the condition that Respondent abide by all laws, rules, and regulations in the future.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

BY



Bernard Robins, M.D., F.A.C.P.
Board President